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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,929	10/22/2003	Hussain U. Bahia	096429-91479	6868
23510	7590	10/01/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP ONE SOUTH PINCKNEY STREET P O BOX 1806 MADISON, WI 53701			DAVIS, OCTAVIA L	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,929

Applicant(s)

BAHIA ET AL.

Examiner

Octavia Davis

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/26/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 27 is objected to because of the following informality: On line 1, "second plate" lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21 – 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hines et al (5,456,118).

Regarding claims 1, 21 and 30, Hines et al disclose a gyratory compactor comprising a frame 11, a mold 20 into which a material specimen S is placed, the mold having a cavity, an inner plate 81, an outer plate 61 spaced apart from the inner plate, a load cell assembly 83 positioned between the inner plate and the outer plate for measuring a load, a ram 25 for compacting the material and a mold gyrator 21 for gyrating the mold (See Col. 3, lines 34 – 65 and Col. 6, lines 53 – 66, See Fig. 3).

Regarding claim 23, the mold 20 is a cylindrical mold and the plates are circular (See Col. 3, line 51).

Regarding claim 24, the outer plate is prevented from sliding with respect to the ram 25 when the mold gyrator 21 gyrates the mold 20 (See Cols. 6 and 7, lines 60 – 67 and 1 – 5).

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Regarding claim 25, a projecting member 59 extends from the ram 25 into the outer plate 61 (See Cols. 5 and 6, lines 50 – 59 and 6 – 20).

Regarding claims 26 – 28, a data acquisition system 95 is coupled to the load cell assembly 83 and a microprocessor 104 is coupled to the data system (See Col. 8, lines 23 – 35).

Regarding claim 29, the microprocessor 104 is coupled to the compactor (See Col. 8, lines 23 – 27).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brovold (6,026,692) teaches a gyratory compaction apparatus for creating compression and shear forces in a sample material.

5. Any inquiry concerning this communication should be directed to Examiner Octavia Davis at telephone number (571) 272 - 2176. The examiner can normally be reached on Monday - Thursdays (9:00 - 5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz, can be reached on (571) 272 - 2180. The fax phone number for the organization where this application where this application or proceeding is assigned is (703) 872 – 9306.

ED

OD/2855

9/27/04


EDWARD LEFKOWITZ
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